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Chapter 9. Municipal Court*

Editor's note--Municipal courts were abolished by Public Acts 1908, Act No. 154 (M.S.A., § 27A.9921), effective January 1, 1969.

Sec. 9.1. Justice courts--Present law.

After this charter shall become law, no justice of the peace shall be elected; and no justice of the peace shall be appointed to fill a vacancy beyond January 1, 1947. No suit, cause, or prosecution of any kind before or pending before the Justice Courts of the City of Midland on January 1, 1947, shall be in any manner affected by the adoption or taking effect of this charter, and as to such suits, causes, or prosecutions, all of the provisions of the present law, whether general or special, applying to the Justice Courts of the City of Midland and to appeals therefrom, shall remain in full force and effect and as to such suits, causes, or prosecutions, shall be followed by and be applicable to the Municipal Court herein created and the Municipal Judge who qualifies hereunder.

Sec. 9.2. Municipal court.

On January 1, 1947, the justice courts of the City of Midland shall cease to exist and the powers, jurisdictions, and duties of said courts shall be consolidated into one (1) court, to be known as the Municipal Court of the City of Midland, to be presided over by one (1) judge to be known as a Municipal Judge, who shall have been a resident of the City of Midland for five (5) years and who shall be an attorney admitted to practice law in this state for a period of not less than three (3) years prior to his election or appointment under the provisions of this charter.

Sec. 9.3. Salary; fees.

Such Municipal Judge shall tax costs as provided by statute but shall receive no fees to his own use, except as hereafter provided. Commencing January 1, 1967, he shall be paid a salary by the city of not less than \$7,500.00 per annum, and not to exceed \$16,000.00 per annum, which salary shall be set by the Council not later than thirty (30) days before the final date and time for filing nominating petitions for the office of Municipal Judge prior to each regular election at which a Municipal Judge is to be elected for a full term. Such salary shall be in lieu of all fees both in civil and criminal cases to which said Judge might be entitled, but for the provisions of this section, such fees in civil cases shall be collected by said Municipal Judge and turned over by him to the Treasurer on the first and fifteenth of each month. Such fees in criminal cases shall be charged and presented to, and audited by Board of Supervisors of Midland County in the same manner and amounts as provided by law in the case of Justices of the Peace in townships. Upon the allowance by said Board of Supervisors, such criminal fees shall be paid monthly by said County of Midland to the Treasurer of the City of Midland for the use and benefit of the said City of Midland. The Municipal Judge shall turn over to the Treasurer of the County of Midland, all costs and fines in state criminal cases, and shall turn over to the City Treasurer all costs and fines in city ordinance or charter cases and shall account to both the

City and County for such costs and fines on the first of each month. The provisions of this section shall in no manner affect the fees or compensation to which said Judge may be entitled for the performance of marriage ceremonies, taking acknowledgments, and administering oaths in matters not connected with any litigation begun or pending before him. The Municipal Judge shall not practice law in any manner nor engage in the business of collecting bills while in office.

Sec. 9.4. Jurisdiction.

The Municipal Court shall have jurisdiction in all causes arising in the County of Midland up to the amount of \$1500.00, and shall have the same jurisdiction in criminal matters as is conferred upon justices of the peace by the general laws of the state, and further, shall have authority to hear, try, and determine all suits and prosecutions for the recovery and enforcing of fines, penalties, and forfeitures imposed by this charter and the ordinances of the city, and to punish offenders as prescribed and directed therein.

Sec. 9.5. Powers of municipal judge.

The Municipal Judge shall have the same powers and authority to set aside a verdict or judgment and grant a new trial therein upon legal cause therefor as the Circuit Courts of the state possess, in accordance with the rules and practice as provided by Section 2264 of the Compiled Laws of 1929, as amended.

Sec. 9.6. Shall keep docket of suits and prosecutions: Accounts of all moneys received and paid out.

The Municipal Judge shall enter or cause to be entered in the docket or dockets kept by him the title of all suits and prosecutions commenced or prosecuted before him for violation of the charter and ordinances of the city and all the proceedings and the judgment rendered in such cause and shall itemize all costs taxed or allowed therein. He shall also enter or cause to be entered the amounts and dates of payment of all fines, penalties and forfeitures, moneys and costs received by him or the Clerk of the Court, on account of any such suit or proceeding. Such docket or dockets shall be submitted by the Municipal Judge at all reasonable times to the examination of any person desiring to examine the same, and shall be produced by the Municipal Judge to the Council and the auditors of the city whenever required.

Sec. 9.7. Court clerk.

The Municipal Judge, may, with the consent of the Council relative to the creation and salary of such office, appoint a court clerk or clerks. Such clerk or clerks, if appointed, shall, by virtue of his or their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and to issue all processes and attest the same in the name of the Municipal Judge, and shall be required to collect all fees in civil causes and all costs and fines in criminal causes and all moneys paid into court for security for costs, bail or otherwise and to enter a record of the same in books kept by him for that purpose and to pay over the same to the authorities of the city or county or other persons entitled to the same, and such books of such clerk shall be audited at least once each year to ascertain that such books are correctly kept and that all moneys received have been properly accounted for. Such clerk or clerks shall, before entering upon the duties of his or their office, give such bond as may be required by the Council and shall perform such other duties as may be from time to time prescribed by the Council.

Sec. 9.8. Transfer of causes.

Whenever the Municipal Judge is unable to act in any cause pending before him, such cause, at the time the matter comes before him, may be transferred, upon his order, or in case of his absence, by the court clerk to one of the justices of the peace of Midland County or to any other person permitted by law to hear and determine such causes, without any notice to the parties in

such cause, but a note of such transfer shall be entered upon the docket of the case, and when two or more judges or justices, or other proper persons, shall have acted in any one cause or proceedings, the docket shall be signed in the manner and within the time provided by law by the judge or justice who shall have given the final judgment in such cause. Any such justice of the peace or other person acting for the Municipal Judge during his absence or because of his disqualification to act shall be compensated by the city at such rate as the Council shall fix.

Sec. 9.9. Court officers.

The City Manager may assign a police officer of the City of Midland to the Municipal Court who shall have all the duties and powers of court officers in the Circuit Courts of the state and shall serve in such capacity during the pleasure of the City Manager. Such officer shall receive no compensation except such as he may be entitled to as a police officer. All fees, except mileage allowances, received by such officer in the performance of the duties imposed upon him in accordance with the provisions of this charter shall be paid into the city treasury.

Sec. 9.10. Jury trials.

Each period of three months throughout the year, beginning on the first day of February, May, August, and November respectively, is hereby designated and established as a term for the trial of jury cases and during each such term such cases may be set for trial upon one or more certain days of each month, or as soon thereafter as such trial can be reached. A panel of jurors shall be drawn from the citizens of the city having qualifications of electors of the city for each panel to serve at each term of such court. Such selection of jurors to serve in each case shall be made, as nearly as may be, in the manner as provided by law in circuit courts, but the trial of such cause by jury shall be otherwise conducted as provided by law for trials by jury before justices of the peace in townships, except that it shall be the duty of the Municipal Judge to instruct the jury as to the law applicable to the case, which instructions shall be received by the jury as the law in the case. As soon as all jury cases set for any term, and ready for trial, shall have been disposed of, the panel of jurors called for said term shall be discharged; Provided, however, that when there is no jury in attendance in the court, the Municipal Judge, in order to avoid hardship from delay, may, in his discretion, order a jury impaneled in accordance with the method provided by law to secure a jury in trials before justices of the peace in townships. The Council may, in its discretion, pass an ordinance embodying the provisions of Act No. 288 of the Public Acts of 1929 governing the selection of jurors from among the qualified electors of the city and for the conduct of trials by jury, insofar as such act provides therefor. In the event that the Council shall pass such ordinance, the provisions thereof shall prevail over the provisions of this section insofar as they may be inconsistent therewith.

Sec. 9.11. Court room supplies.

The Council shall provide a place which shall be suitable for holding court and shall furnish the necessary furniture, fixtures, dockets, books, stationery for use in the business of the court and shall provide for the heating, lighting, and maintenance of said court room. The Municipal Court shall have a seal of office and copies of all records thereof, duly certified by the Municipal Judge or Clerk, under seal to be correct, shall be received in evidence in all of the courts of the state. The seal shall bear the words, "Municipal Court of the City of Midland, Michigan."

Sec. 9.12. Rules of court.

The Council shall have power and authority by ordinance to regulate the office hours of the Municipal Judge and to make all other necessary and proper rules for the regulation and conduct of the Municipal Court, which rules shall not be inconsistent with the provisions of this charter and the general laws of the state. Such rules shall provide for a vacation period for the personnel of the court of two (2) weeks in each year without loss of salary.

Sec. 9.13. Vacancies.

If the Municipal Judge shall be disbarred, or if, for any cause provided in this charter, a vacancy shall occur in the office of Municipal Judge, the Council shall, except in case of recall, select a qualified and suitable person to serve in such office until the successor of the Municipal Judge whose office has become vacant, shall be elected at the next biennial city election and shall have qualified and assumed his office. Any person elected to fill a vacancy in the office of Municipal Judge shall assume office on the first day of January following his election and shall hold office under such election only for the residue of the term in which such vacancy occurs.

Sec. 9.14. Traffic violations bureau.

The Council shall have power and authority to establish, by ordinance, a Traffic Violations Bureau within the Municipal Court under the charge of the court clerk for the handling of vehicular traffic cases, other than driving while under the influence of intoxicating liquors or narcotics, failure to stop in the event of an accident, or reckless driving. In such bureau, any person who has received any notice to appear in answer to a traffic charge under the ordinances of the city may, within the time specified in the notice, answer at the Traffic Violations Bureau to the charges set forth in such notice by paying a prescribed fine which cannot be waived by the bureau, and, in writing, pleading guilty to the charge, waiving a hearing in court and giving power of attorney to the court clerk to make such a plea and pay such fine in court. Acceptance of the prescribed fine and the power of attorney by the bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given a receipt which so states. The creation of such a bureau by the Council shall not operate so as to deprive any person of a full and impartial hearing in court, should such person so choose.

Sec. 9.15. Constable.*

Editor's note--The office of constable was abolished with the adoption of Ord. No. 995, enacted Dec. 22, 1980. The provisions of § 1 of said ordinance are codified as Ch. 2. Art. XV. § 2-280. of this Code. The ordinance did not provide for amendment of this Charter.

The Constable shall have like powers and authorities in matters of civil and criminal nature and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. He shall have power also to serve all processes issued for breaches of ordinances of the city. The only compensation of the Constable shall be the statutory fees of that office, and an accounting of such fees shall be made to the city in the manner prescribed by state law or in any rules which may be established for the regulation of the conduct of the Municipal Court by the Council. The bond of the Constable shall be that required of constables in townships and the cost thereof shall be paid by the Constable.

The City Manager may from time to time appoint any police officer or officers approved by the Municipal Judge as additional constables or to fill any vacancy which may occur in the office of Constable. The cost of the bond of any Constable so appointed shall be paid by the city.

Whenever a police officer shall serve as Constable, the statutory fees which he shall receive in such capacity shall be paid into the city treasury as provided in Section 9.9 of this charter.